

RECORDATION NO. 15033 Filed 1425

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AUG 22 1986 -10 40 AM

AUG 22 1986 -10 40 AM

INTERSTATE COMMERCE COMMISSION

**Barclays
American**

201 South Tryon Street

P. O. Box 31217

Charlotte, NC 28231

(704) 372-5210

August 8, 1986

RECORDATION NO. 15033B Filed 1425

RECORDATION NO. 15033 Filed 1425

AUG 22 1986 -10 40 AM

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James H. Bayne INTERSTATE COMMERCE COMMISSION
Secretary, Interstate Commerce Commission
12th and Constitution Avenue, N. W.
Washington, D. C. 20423

No. 6-234A060

Date AUG 22 1986

Fee \$ 40.00

ICC Washington, D.C.

Dear Secretary:

I have enclosed two original copies of the documents described below to be recorded pursuant to Section 11303 of Title 49 of the U. S. Code.

The documents are as follows:

- NEW NO.
1. Conditional Sale Agreement, a primary document dated as of May 1, 1986.
 - A 2. Agreement and Assignment, a secondary document dated as of May 1, 1986.
 - B 3. Lease of Railroad Equipment, a primary document dated as of May 1, 1986.
 - C 4. Assignment of Lease and Agreement, a primary document dated as of May 1, 1986.

We request that the assignment agreements be cross-indexed.

The names and addresses of the parties to the documents are as follows:

1. Conditional Sale Agreement

Vendor: Trinity Industries, Inc.
("Builder") Box 10587
2525 Stemmons Freeway
Dallas, TX 75207

Purchaser: BarclaysAmerican/Leasing, Inc.
("Owner") 201 South Tryon Street
Charlotte, NC 28202

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2. Agreement and Assignment

Assignor: Trinity Industries, Inc.
("Builder") Box 10587
2525 Stemmons Freeway
Dallas, TX 75207

and

Assignee: Barclays Bank PLC
("Bank") 1800 First Atlanta Tower
Two Peachtree Street, NW
Atlanta, GA 30383

3. Lease of Railroad Equipment

Lessor: BarclaysAmerican/Leasing, Inc.
("Owner") 201 South Tryon Street
Charlotte, NC 28202

and

Lessee: BASF Corporation
Route 60 East
P. O. Drawer D
Williamsburg, VA 23187

4. Assignment of Lease and Agreement

Assignor: BarclaysAmerican/Leasing, Inc.
("Owner") 201 South Tryon Street
Charlotte, NC 28202

and

Assignee: Barclays Bank PLC
("Bank") 1800 First Atlanta Tower
Two Peachtree Street, NW
Atlanta, GA 30383

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A description of the equipment covered by the documents is as follows:

- . Thirty-Two (32) 23,800 Gallon Coiled and Insulated Aluminum Tank Cars constructed by Trinity Industries, Inc., AAR Mechanical Designation: 111A60ALWI and Identification Numbers:(both inclusive) DBCX 425-456.

A fee of \$ is enclosed. Please return the original documents to Credit and Administration Director, BarclaysAmerican/Leasing, Inc., 201 South Tryon Street, P. O. Box 31217, Charlotte, North Carolina 28231.

A short summary of the documents to appear in the index is as follows:

1. Primary Documents

- . Conditional Sale Agreement dated as of May 1, 1986, between Trinity Industries, Inc., 2525 Stemmons Freeway, Dallas, TX 75207, as vendor; and BarclaysAmerican/Leasing, Inc., 201 South Tryon Street, Charlotte, NC 28202, as purchaser, covering Thirty Two (32) 23,800 Gallon Coiled and Insulated Aluminum Tank Cars bearing identification numbers: (both inclusive) DBCX425-456 purchased by Trinity Industries, Inc.
- . Lease of Railroad Equipment dated as of May 1, 1986, between BarclaysAmerican/Leasing, Inc., 201 South Tryon Street, Charlotte, NC 28202, as lessor and BASF Corporation, Route 60 East, P. O. Drawer D, Williamsburg, VA 23187, as lessee covering Thirty Two (32) 23,800 Gallon Coiled and Insulated Aluminum Tank Cars bearing identification numbers: (both inclusive) DBCX425-456 purchased by Trinity Industries, Inc.

2. Secondary Document

- . Agreement and Assignment dated as of May 1, 1986, between Trinity Industries, Inc. 2525 Stemmons Freeway, Dallas, TX 75207, as assignor; and Barclays Bank PLC, 1800 First Atlanta Tower, Two Peachtree Street, Atlanta, GA 30383, as assignee, wherein Trinity Industries, Inc. assigned certain of their rights and interest in that certain conditional Sale Agreement dated as of May 1, 1986, between Barclays-American/Leasing, Inc., 201 South Tryon Street,

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Charlotte, NC 28202 and Trinity Industries, Inc. covering
Thirty Two (32) 23,800 Gallon Coiled and Insulated Aluminum
Tank Cars bearing identification numbers: (both inclusive)
DBCX425-456 purchased by Trinity Industries, Inc.

Very truly yours,

BARCLAYSAMERICAN/LEASING, INC.



W. D. Thompson
Vice President
General Administration Manager

WDT/bdo

Enclosures

15033/B
REGISTRATION NO. Filed 1425

-B

AUG 22 1986 -10 40 AM
INTERSTATE COMMERCE COMMISSION

ANNEX C
to
Conditional Sale Agreement

LEASE OF RAILROAD EQUIPMENT

Dated as of May 1, 1986

Between

BASF CORPORATION,

Lessee,

and

BARCLAYSAMERICAN/LEASING, INC.

Owner,

[Covering 32 Insulated Tank Cars]

The rights and interests of the Lessor under this Lease are subject to a security interest in favor of Barclays Bank PLC Limited. The original of this Lease is held by Barclays Bank PLC.

Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303.

LEASE OR RAILROAD EQUIPMENT

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*This Table of Contents has been included for convenience only and does not form a part of this document.

LEASE OF RAILROAD EQUIPMENT dated as of May 1, 1986, between BASF CORPORATION, a Delaware corporation ("Lessee"), and BARCLAYSAMERICAN/LEASING, INC., a North Carolina corporation ("Owner ")

WHEREAS, the Owner is entering into a Conditional Sale Agreement dated as of the date hereof ("CSA") with TRINITY INDUSTRIES, INC. ("Builder") pursuant to which Builder has agreed to conditionally sell and deliver to the Owner the units of railroad equipment described in Appendix A hereto ("Equipment").

WHEREAS, Builder is assigning certain of its interests in the CSA pursuant to an Agreement and Assignment dated as of the date hereof ("CSA Assignment") to BARCLAYS BANK PLC ("Bank").

WHEREAS, the Lessee desires to lease from the Owner such units of Equipment as are delivered and accepted under the CSA ("Units") upon the terms and conditions hereinafter provided. The Owner will assign this Lease for security to the Bank pursuant to an Assignment of Lease and Agreement dated as of the date hereof ("Lease Assignment") and the Lessee will acknowledge and consent thereto pursuant to the Consent and Agreement substantially in the form attached to the Lease Assignment ("Consent").

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, the Owner hereby leases the Units to the Lessee upon the following terms and conditions:

SECTION 1. NET LEASE

This Lease is a net lease and all rentals and other amounts hereunder shall be net to the Owner and all costs, expenses, and obligations of every kind and nature relating to the Units shall be paid by the Lessee, except as otherwise provided herein. Each of the Lessee's obligations to

pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent or such other amounts, reduction thereof or setoff against rent or such other amounts, including but not limited to abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Owner under this Lease or the CSA, including the Lessee's rights by subrogation thereunder to Builder, the Bank or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate or the respective obligations of the Owner or the Lessee be otherwise affected by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final, and the Lessee shall not seek to recover all or any part of such payment from the Owner or the Bank for any reason whatsoever; provided, however, that the foregoing shall not be deemed a waiver by the Lessee of its right to pursue any past, present or future claims directly against Builder.

SECTION 2. DELIVERY AND ACCEPTANCE OF UNITS

The Owner hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Owner under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States at which such Unit is so delivered to the Owner. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be in accordance with the Specifications (as defined in the CSA) and otherwise acceptable, to accept delivery of such Unit on behalf of the Owner under the CSA and on behalf of itself hereunder and execute and deliver to the Owner a certificate of acceptance ("Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Owner on the date of such Certificate of Acceptance ("Acceptance Date") and is marked in accordance with Section 5 hereof, whereupon such Unit shall be subject thereafter to all the terms and conditions of this Lease.

SECTION 3. RENTALS

3.1 Amount and Date of Payment. The Lessee agrees to pay to the Owner, as rental for each Unit subject to this Lease, (a) on January 1, 1987, interim rent in an amount equal to daily equivalent of the Floating Rate multiplied by the Purchase Price of each Unit subject to this Lease for each day elapsed from and including the Closing Date to but excluding, January 1, 1987, and (b) eighty (80) consecutive quarterly payments in an amount equal to 1.8666% multiplied by the Purchase Price of each Unit subject to this Lease in arrears, on January 1, April 1, July 1, and October 1 in each year, commencing on April 1, 1987, until the end of the term of this Lease.

The foregoing interim rental and quarterly rental payments have been calculated on the assumptions that interest payable on the CSA Indebtedness will be equal to 8.125% per annum computed on the basis of a 360-day year of four 90-day quarters, whereas the CSA Indebtedness will bear interest at the Floating Rate. With respect to any rental payment date, the rental payment payable by Lessee shall be increased (or decreased) by the amount that the interest due on the CSA indebtedness on such date exceeds (or is less than) the interest that would have been due if the CSA indebtedness bore interest at the rate of 8.125% per annum computed on the basis of a 360-day year of four 90-day quarters. At least five days prior to each quarterly rental payment date, the Owner will advise the Lessee of the amount of the rental due on such rental payment date and the calculations showing how the amount was arrived at, such calculations to be conclusive as to the rental payment due absent manifest error.

In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Owner as rent amounts equal to the amounts required by the Owner to make the payments provided for in Section 4.4(d) of the CSA on the dates required for such payments (without regard to the limitation of the obligation of the Owner set forth therein) and the Owner agrees to apply such rentals for such purposes.

Notwithstanding the foregoing, the rentals payable will never be less than those amounts required to enable the Owner to satisfy its obligations to pay the CSA Indebtedness and the interest thereon when due regardless of any limitation of liability set forth in the CSA.

3.2 Payment on Nonbusiness Day. If any of the rental payment dates referred to in Section 3.1 is not a Business Day, the rental payment otherwise payable on such date shall be payable on the next succeeding Business Day. The term "Business Day" as used herein means any calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Charlotte, North Carolina; Atlanta, Georgia; or New York, New York, are authorized or obligated to remain closed.

3.3 Instructions to Pay Bank and Owner. Upon execution and delivery of the Lease Assignment and until the Bank shall have advised the Lessee in writing that all sums due from the Owner under the CSA have been fully satisfied and discharged, the Owner irrevocably instructs the Lessee to make all the payments provided for in this Lease to the Bank at Suite 1800 First Atlanta Tower, 2 Peachtree Street, Atlanta, Georgia 30383, Attention: Manager (or at such other address as may be furnished in writing to the Lessee by the Bank). If the Lease Assignment is not executed and delivered, or if the Lessee shall have been advised by the Bank in writing that all sums due from the Owner under the CSA have been fully discharged and satisfied, payments thereafter due shall be made to the Owner in immediately available funds in the manner provided in Section 3.4 hereof.

3.4 Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by Section 3.1 hereof in immediately available Federal funds on the date and at the place where such payment is to be made.

SECTION 4. TERM OF LEASE

4.1 Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the Acceptance Date and, subject to the provisions of Sections 7, 13 and 16 hereof, shall terminate 20 years from January 1, 1987. The obligations of the Lessee hereunder shall survive the expiration of the term of this Lease.

4.2 Rights and Obligations of Lessee Subject to CSA. All rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights and obligations of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination

of its term; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Bank is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under Section 15 hereof.

SECTION 5. IDENTIFICATION MARKS

The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto or, in the case of any Unit not there listed, such identification number as shall be set forth in any supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Owner, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Owner's and the Bank's title to and property in such Unit. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on each side thereof and will replace promptly any such words which may be removed, defaced, obliterated or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Bank and the Owner and filed by the Lessee in all public offices where this Lease and the CSA shall have been filed and (ii) the Lessee shall have furnished the Bank and the Owner an opinion of counsel in form and substance satisfactory to the Bank and the Owner to the effect that such statement has been so filed, such filing will protect the Bank's and the Owner's interests in such Units and no filing with or giving of notice to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Bank and the Owner in such Units.

The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its permitted sublessees, but the Lessee will not allow the name of any other person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

SECTION 6. GENERAL TAX INDEMNIFICATION

The Lessee assumes responsibility for and agrees to pay, protect, save, keep harmless and indemnify the Owner and the Bank and their successors and assigns ("Indemnified Persons") against all taxes, assessments, fees, withholdings and other governmental charges of any nature whatsoever, including without limitation penalties and interest (all such taxes, assessments, fees, withholdings, governmental charges, penalties and interest called "Taxes"), imposed on, incurred by or asserted against any Indemnified Person or any Unit in whole or in part on account of or with respect to this Lease or the CSA or in any way relating to or arising or alleged to arise out of this Lease, the CSA, the Participation Agreement, the Lease Assignment, the CSA Assignment or the Units or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder (i) for any taxes imposed on or measured by any fees or compensation received by the Owner or the Bank or for any taxes payable solely as a result of any actions taken or omissions to take any actions by such Indemnified Person in breach of any covenant set forth in this Lease or in any other document contemplated by the Participation Agreement, (ii) for any Federal, state and local taxes measured by net income based upon the Owner's receipt of payments provided for herein

(other than payments due the Owner under this Section 6 for which the Owner is entitled to a corresponding deduction in the calculation of its net income) and franchise and value added taxes which are in lieu of such net income taxes and (iii) for any penalties, fines or interest where such levy or tax is not paid, if the Owner was aware, and the Lessee was not aware, of the tax and its due date and the Owner failed in a timely fashion to notify Lessee thereof. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this Section 6 within 10 days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this Section 6, any payment shall be made at the time therein provided.

In the event that the Owner shall become obligated to make any payment to the Builder or the Bank or otherwise pursuant to any corresponding provision of the CSA not covered by the foregoing paragraph of this Section 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner as will enable the Owner to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to Taxes are required to be made by the Lessee, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Owner and the Bank in such Units, as shall be satisfactory to the Owner and the Bank; provided, however, that the Owner shall, with respect to any state of the United States or political subdivision thereof, file such returns, statements and reports relating to sales or use taxes and taxes, fees and charges on or measured by the Owner's gross receipts arising from the Units or the value added by the Owner thereto as the Lessee shall determine are required to be filed and as shall be prepared

by the Lessee, and the Owner shall remit the amount thereof upon payment by the Lessee to the Owner (such payment to be made promptly upon demand by the Owner therefor) or such taxes, fees and charges except as provided above. To the extent that the Owner has information necessary to the preparation of any returns, statements and reports which the Lessee must prepare or file, it will furnish such information to the Lessee.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this Section 6, the Owner hereby authorizes the Lessee to act in the name of the Owner and on its behalf; provided, however, that the Lessee shall indemnify and hold the Owner harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of or incident to any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Owner, submit to the Owner copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Owner of the Lessee's performance of its duties under this Section 6. The Lessee shall also furnish promptly upon request such data as the Owner reasonably may require to permit its compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or proposed increase called a "Claim"), indemnification for which would be required under this Section 6, the Indemnified Person will notify the Lessee in writing within a reasonable time of such Claim. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such

Claim represents amounts payable to the Bank or Builder under Article 6 of the CSA. If reasonably requested by the Lessee in writing and upon receipt of an indemnification reasonably satisfactory to the Indemnified Person, the Owner will permit the Lessee to contest such claims under Article 6 of the CSA in accordance with the rights of the Owner thereunder; provided, however, that such contest shall not materially and adversely affect the right, title and interest of the Owner in the Units and the Lease. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may, after consultation with the Lessee and, after consideration of Lessee's desires as to choice of forum, in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner reasonably satisfactory to such Indemnified Person for any liability or loss which such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee covenants and agrees to pay all amounts due under this Section 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof and, to the extent possible, after taking into account any deductions permitted by reason of such indemnification, shall be equal to the amount of payment otherwise required hereunder.

In the event that the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this Section 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

SECTION 7. PAYMENT FOR CASUALTY OCCURRENCES; INSURANCE;
ECONOMIC OBSOLESCENCE

7.1 Definition of Casualty Occurrence; Payments. In the event that any Unit shall be or become worn out, lost, stolen, destroyed or, in the reasonable opinion of the Lessee, irreparably damaged from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to Section 14 or 17 hereof, or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government or any other governmental entity (including foreign governmental entity) for a stated period which shall exceed the then remaining term of this Lease or resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (each such occurrence called a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Owner and the Bank with respect thereto. On the next succeeding rental payment date or the date of termination of this Lease in the case of the last rental period (each such date called a "Casualty Payment Date"), the

Lessee shall pay to the Owner a sum equal to the Casualty Payment (as defined in paragraph 7.4 hereof) of any such Unit as of such Casualty Payment Date. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and the Owner shall be entitled to recover possession of such Unit whether or not such Unit is in the possession of the Lessee; provided, however, that the Lessee shall have no liability to return a Unit which has been lost, stolen or completely destroyed if the Owner is unable to recover such a Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Owner with respect thereto and pay the Owner at the end of the term of this Lease an amount equal to the Casualty Payment as of the end of the term of this Lease. Following such payment and provided that no Event of Default shall have occurred and be continuing, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Payment previously paid by the Lessee plus the Lessee's reasonable and documented costs in such proceeding and any balance of such payments shall be the property of the Owner and shall be paid to the Owner forthwith. In the event such Unit shall be returned by the governmental entity prior to the time the Lessee shall have been reimbursed by such application of condemnation payments in an amount equal to such Casualty Payment, then the Lessee shall dispose of such Unit as agent for the Owner, and shall retain the proceeds of such disposition to the extent that the aggregate of the amounts so retained and the condemnation payments theretofore received by the Lessee shall equal such Casualty Payment previously paid by the

Lessee plus the Lessee's reasonable and documented costs in such proceeding and the balance of such proceeds shall be paid to the Owner forthwith. In the event such Unit shall be returned by the governmental entity following the time the Lessee shall have been reimbursed by such application of condemnation payments for such use in an amount equal to such Casualty Payment, such Unit shall be returned by the Lessee to the Owner in the manner provided in Section 17 hereof.

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease, either at the expiration of the original or extended term hereof, and before such Unit shall have been returned in the manner provided in Section 17 hereof, the Lessee shall promptly and fully notify the Owner with respect thereto and pay to the Owner (in addition to any amounts due pursuant to Section 17 hereof) an amount equal to the Casualty Payment as of the end of the term of this Lease. Upon the making of any such payment by the Lessee in respect of any Unit the Owner shall be entitled to recover possession of such Unit whether or not such Unit is in the possession of the Lessee; provided, however, that the Lessee shall have no liability to return a Unit which has been lost, stolen or completely destroyed if the Owner is unable to recover such a Unit.

7.2 Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the penultimate paragraph of paragraph 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Owner or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to or retained by the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3 Lessee Agent for Disposal. The Owner hereby appoints the Lessee its agent to dispose of any Unit or any component thereof suffering a Casualty Occurrence before and after expiration of the Lease at the best price obtainable on an "as is, where is" basis. If the Lessee has previously paid the Casualty Payment to the Owner, the Lessee shall be entitled to the proceeds of such sale or condemnation to the extent they do not exceed the Casualty Payment of such Unit and shall pay forthwith any excess to Owner.

7.4 Amount of Casualty Payment. The Casualty Payment of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to the sum of, (i) that percentage of the Purchase Price of such Unit as is set forth in Appendix B hereto opposite the numbered Casualty Payment Date next succeeding the actual date of such Casualty Occurrence or, if there is no such numbered Casualty Payment Date, the last rental payment date, and (ii) rental payment due on such Casualty Payment Date in respect of such Unit provided that in no event shall such Casualty Payment be less than the "Casualty Value" (as defined in Section 7.3 of the CSA).

7.5 No Release. Except as provided in this Section 7, the Lessee shall not be released from its obligations hereunder in the event of any Casualty Occurrence, and shall bear the risk of any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.6 Insurance to be Maintained. (1) The Lessee shall at its own expense provide and maintain insurance, with financially sound insurers of recognized responsibility, on or with respect to the Units and the operation thereof at all times prior to their return to the Owner as follows:

(i) insurance against loss or damage to the Units or any part thereof, which insurance shall be in amounts aggregating at all times not less than the then Casualty Payment of the Units; provided that the Lessee may self-insure against such risks by deductible provisions or up to ~~\$500,000~~ for each event of loss or damage;

\$500,000 *llh*

(ii) insurance against loss or damage to the person or property of others, which insurance shall be against such risks, in such form and in such amounts as would be carried by a prudent user of railroad cars similar to the Units; provided that in no event will such insurance be less than that which the Lessee carries on equipment owned or leased by it similar to the Units.

The policies of insurance required by this Section shall name the Owner and the Bank as additional insureds as their interest may appear.

The Lessee will, at its expense, furnish or cause to be furnished to the Owner and the Bank on or before the Acceptance Date, and within 30 days prior to the expiration of the preceding policy during the Lease term, a certificate of insurance issued by a firm of independent insurance brokers of recognized standing, appointed by the Lessee and satisfactory to the Owner and the Bank, setting forth the amounts and types of insurance carried and maintained with respect to the Units, the names of the insurers providing such insurance, the expiration dates of all insurance policies covering the Units and such other relevant insurance matters as the Owner or the Bank may reasonably request. During the Lease term, the Lessee will promptly notify the Owner and the Bank in writing of any and all changes in, or cancellations or suspensions of, the insurance coverage for the Units.

All policies or certificates evidencing insurance required to be carried and maintained by this Section shall provide for at least 30 days' prior written notice by the underwriter, insurance company or fund, as the case may be, to the Owner and the Bank in the event of cancellation expiration or modification of the coverage of any insurance or of nonpayment of any premium.

The Lessee will permit representatives of the Owner and the Bank to inspect all cover notes, policies, binders and certificates of entry in protection and indemnity associations and all endorsements and riders amendatory thereof providing the insurance coverage required by this Section.

The Lessee will, at its own expense, make or cause to be made all proofs of loss and take, or cause to be taken, all other action necessary or appropriate to make collections from the underwriters of insurance required to be carried and maintained by this Section. To that end, the Owner, at the Lessee's expense, will execute such claim papers and other documents, take such action and furnish such information as the Lessee may reasonably request.

The Lessee will not do or omit any act, or voluntarily suffer or permit any act to be done or omitted, whereby any insurance required to be carried or maintained hereunder shall or may be suspended, impaired or defeated, and will not suffer or permit the Units to be used in any manner, not permitted under the policies of insurance in effect.

All insurance carried by the Lessee under this Section shall provide that in respect of the respective interests of the Owner and the Bank in such policies the insurance shall not be invalidated by any action or inaction of the Lessee or any other person and shall insure the Owner and the Bank regardless of any breach or violation of any warranty, declarations or conditions contained in such policies by the Lessee or any other person.

All insurance carried by the Lessee hereunder shall be primary without right of contribution from any insurance carried by the Owner or the Bank.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Owner may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand, reimburse the Owner for the cost thereof together with interest on the amount of such cost at the rate per annum specified in Section 19 hereof.

(3) Notwithstanding the above, the Owner may, at its option and expense, provide casualty insurance in amounts which are in excess of the Casualty Payment and which policies may name the Owner as the loss payee. If the Owner exercises said option, then the Lessee will cooperate with the reasonable requests of the Owner so as to effect this insurance coverage; it being understood that any insured coverage under this subparagraph 7.6(3) is expressly within the Owner's option and in no way relieves the Lessee from any of its responsibilities under this paragraph 7.6.

7.7 Insurance Proceeds and Condemnation Payments. If the Owner shall receive (directly or from the Bank) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Owner shall pay forthwith the same to the Lessee up to an amount equal to the Casualty Payment with respect to any Unit theretofore paid by the Lessee and any balance shall remain the property of the Owner; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Payment and the rentals payable in respect of such Units to the Owner.

All insurance proceeds received by the Owner (directly or from the Bank) in respect of any damage to any Unit not constituting a Casualty Occurrence shall be paid to the Lessee upon proof reasonably satisfactory to the Owner that the damage to such Unit in respect of which such proceeds were paid has been fully repaired, provided that no Event of Default shall have occurred and be continuing.

7.8 Economic Obsolescence. In the event that the Lessee shall, in its reasonable judgment, determine that the Units remaining under this Lease have become economically obsolete in the Lessee's business and an officer of the Lessee shall have provided a certificate to such effect to the Owner and the Bank, the Lessee shall have the right, at its option and on at least 120 days' prior written notice to the Owner, to terminate (which act shall hereinafter be called the "Termination") this Lease as to not less than all such Units as of any succeeding rental payment date specified in such notice (such termination date so specified being hereinafter called the "Termination Date"); provided, however, that (i) the Termination Date shall not be earlier than January 2, 1997, (ii) no Event of Default or other event which after the lapse of time or the giving of notice or both would become an Event of Default shall have occurred and be continuing on such date, and (iii) on the Termination Date all Units shall be in the condition required for redelivery pursuant to paragraph 14.1 hereof.

During the period after the giving of such notice until the fifth business day preceding the Termination Date, the Lessee shall use its best efforts to obtain bids for the purchase of each such Unit, and the Lessee shall at least five business days prior to such Termination Date certify to the Owner the amount of each such bid and the name and address of the party (which shall not be a corporation, other entity or individual affiliated with the Lessee or any party from whom the Lessee

or any such affiliate intends thereafter to lease such Unit) submitting such bid. On the Termination Date the Owner shall sell each such Unit for cash to the bidder who shall have submitted the highest bid prior to the Termination Date. The total sale price realized at each such sale shall be retained by the Owner.

On such Termination Date, the Lessee shall pay to the Owner with respect to each such Unit an amount equal to the excess, if any, of the Termination Payment (as hereinafter defined) for each such Unit computed as of such date over the sale price of any such Unit so sold after the deduction of all expenses incurred by the Owner in connection with such sale. The Termination Payment of each such Unit as of the Termination Date on which payment is to be made shall be the sum of (i) that percentage or the Purchase Price of such Unit as is set forth in Appendix B hereto opposite such date, and (ii) rent due on such Termination Date. In no event shall the aggregate amount of sale proceeds retained by the Owner and Termination Payment received by the Owner as aforesaid be less than the Termination Value (as defined in Section 7.4 of the CSA) with respect to such Units as of such Termination Date.

If no sale of the Units shall occur on the Termination Date with respect thereto as provided above, this Lease shall continue in full force and effect without change, unless no sale occurs on the Termination Date on the account of the Owner's failure to consummate such sale to the highest bidder or the Lessee's failure to obtain any bids solely due to the intentional, willful and unreasonable interference by Owner with Lessee's solicitation of bids.

Subject to the receipt by the Owner on the Termination Date of the amounts above described, the obligation of the Lessee to pay rent pursuant to Section 3 hereof in respect of such Unit on each rental payment date shall continue to and include the rental payment date which is the Termination Date but shall then terminate. The Owner shall be

under no duty to solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take any action or incur any cost or expense in connection with any sale other than to transfer or to cause to be transferred all of the Owner's right, title and interest in and to such Unit to the purchaser named in the highest bid certified by the Lessee to the Owner as above provided. Any such sale shall be free and clear of all of the Lessee's rights to such Unit, but otherwise shall be made on an As-Is-Where-Is basis without representation and warranty of any kind expressed or implied except that Owner shall warrant that it has good and marketable title to the Unit and that it has done no act to encumber the same.

If the Lessee shall exercise its option to effect a Termination, the Owner may, notwithstanding such election by the Lessee, by written notice to the Lessee and the Bank given within 60 days after the termination notice is given to the Owner and upon satisfaction and discharge of the Owner's obligations under the CSA with respect to any such Unit, elect to retain such Unit. In the event the Owner shall so elect to retain such Unit and delivers to the Lessee evidence of the satisfaction and discharge of the Owner's obligations under the CSA with respect to such Unit, the Lessee shall not be obligated to pay the Termination Value to the Owner and the Lessee shall deliver such Unit to the Owner in accordance with the provisions of Section 17 hereof.

SECTION 8. REPORTS

On or before March 31, in each year, commencing with the calendar year 1987, the Lessee will furnish to the Owner and the Bank an accurate statement stating (a) as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSA and of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending

repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Owner or the Bank may reasonably request, (b) in the case of all Units repainted or repaired during the preceding year covered by such statement, that the numbers and markings required by Section 5 hereof have been preserved or replaced and (c) that the Lessee is in compliance under this Lease and has performed or has caused to be performed the required maintenance of the Units and that no event has occurred which with notice or the lapse of time or both would constitute an Event of Default. The Owner and the Bank shall each have the right, personally or through its agent to inspect the Units and the Lessee's records with respect thereto at such reasonable times as they may request during the continuance of this Lease.

SECTION 9. DISCLAIMER OF WARRANTIES

THE OWNER DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE OWNER DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Owner and the Lessee, are to be borne by the Lessee; but the Owner hereby authorizes Lessee to assert and enforce from time to time, in the name or and for the account of the Owner or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner may have against the Builder under the provisions of the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing or Owner reasonably considers Lessee to be negligent in asserting and enforcing its rights granted in this Section 9, the Owner may assert and enforce such claims and rights at the

Lessee's sole cost and expense. The Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Owner that the Units describe therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Owner or the Bank based on any of the foregoing matters.

SECTION 10. LAWS AND RULES

10.1 Compliance. The Lessee agrees, for the benefit of the Owner and the Bank, to comply in all respects (including without limitation the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units by the Lessee or any sublessee (all such laws and rules to such extent called "Applicable Laws"), and in the event that the Applicable Laws require any alteration, replacement or addition

of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Owner and the Bank, materially and adversely affect the property or rights of the Owner or the Bank under this Lease or under the CSA.

10.2 Reports for Owner and Bank. The Lessee agrees to prepare and deliver to the Owner and the Bank within a reasonable time prior to the required date of filing (or, to the extent permissible, file on their behalf) any and all reports (other than income tax returns) to be filed by the Owner with any Federal, state or other regulatory authority by reason of the ownership by the Owner of the Units or the leasing thereof to the Lessee.

SECTION 11. MAINTENANCE

11.1 Units in Good Operating Order. The Lessee, at its own cost and expense, will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the Applicable Laws and in the same condition as other similar equipment owned or leased by the Lessee.

11.2 Additions and Accessions. (1) Except as set forth in Sections 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units) which shall be owned by the Lessee, except to the extent such additions modifications or improvements are made in order to comply with Section 11.2(2) hereof.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, whether or not installed or added to such Unit in contravention of Section 11.2(1) hereof, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the Applicable Laws, shall constitute accession to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Owner.

SECTION 12. INDEMNIFICATION

12.1 Indemnified Persons. The Lessee shall pay and shall protect, indemnify and hold harmless the Owner, Bank and their respective successors, assigns, agents and servants ("Indemnified Persons") from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all documented liabilities, obligations, damages, costs, disbursements or expenses relating thereto, including without limitation, the reasonable attorney's fees and expenses of any Indemnified Person) in any way relating to or arising or alleged to arise out of this Lease, the CSA or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Indemnified Person or the Lessee; (iii) any claim for patent or trademark infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner arising or alleged to arise out of the ownership, use, replacement,

adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Indemnified Person (except in the event the Owner has taken redelivery of the Units pursuant to the terms of this Lease), the Lessee or any other person) or resulting or alleged to result from the condition of any Unit thereof; (vi) any violation or alleged violation of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence or willful misconduct of the Indemnified Person; or (vii) any claim arising out of any of the Owner's obligations under the Lease Assignment or the Bank's retention of a security interest under the CSA or the Lease Assignment or the Participation Agreement except to the extent such claim arises from the gross negligence or willful misconduct of the Indemnified Person (all such matters called "Indemnified Matters"). The Lessee shall be obligated under this Section 12.1, whether or not any Indemnified Person shall also be indemnified with respect to any Indemnified Matter under any other agreement by any other person, and the Indemnified Person may proceed directly against the Lessee under this Section 12.1 without first resorting to any such other rights or indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense defend such action, suit or proceeding, or cause the same to be defended by counsel selected by the Lessee and approved by such Indemnified Person, which approval shall not be unreasonably withheld, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification under this Section 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required

to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereor (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against and of any other such taxes as determined in the sole discretion of the Indemnified Person, such discretion to be reasonably applied), shall be equal to the amount of such payment. The Lessee and the Owner each agrees to give the other promptly upon obtaining knowledge thereof written notice of any claim hereby indemnified against; and, as a condition of the Lessee's obligation to indemnify any Indemnified Person other than the Owner, such other Indemnified Person shall be required to give written notice to the Lessee of any claim hereby indemnified against in respect of such Indemnified Person promptly upon obtaining knowledge thereof. Upon the payment in full by the Lessee of any indemnities as contained in this Section 12, (i) the Lessee shall receive any right of such Indemnified Person to proceed against others (except where the Lessee is also indemnifying a person against whom the Indemnified Person has rights) in respect of such Indemnified Matter and (ii) any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified matter shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for its indemnification payments previously made. Nothing in this Section 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness (as defined in the CSA) or a guarantee of the residual value of any Unit.

12.2 Indemnification of Builder. The Lessee further agrees to indemnify, protect and hold harmless the Builder as a third-party beneficiary hereof from and against any and all liability, claims, costs, charges and expense, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of any of the Units of any article or material specified by the Lessee and not manufactured by the Builder

or of any design, process or combination specified by the Lessee and not developed by the Builder which infringes or is claimed to infringe on any patent or other right, provided that the Builder shall have given the Lessee prompt written notice of any such claim or suit and shall have permitted the Lessee to assume complete control over the defense or settlement of the same and shall have rendered all cooperation reasonably requested by the Lessee with respect thereto. The Lessee will give notice to the Builder of any claim known to the Lessee from which liability may be charged against the Builder hereunder.

12.3 Survival. The indemnities contained in this Section 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of and shall be enforceable by any Indemnified Person. None of the indemnities in this Section 12 shall be deemed to create any rights or subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

SECTION 13. DEFAULT/REMEDIES

13.1 Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, one or more of the following events (each such event an "Event of Default") shall occur:

(A) failure to pay when due any amount provided for hereunder, and such failure shall continue for five business days after notice to Lessee from the Owner or the Bank of such failure;

(B) Lessee fails to procure and maintain insurance in accordance with terms of this Agreement and such default shall continue for five business days after notice to Lessee from the Owner or the Bank of such failure;

(C) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of any Units;

(D) default shall be made in the observance or performance of any other covenant, condition or agreement on the part of the Lessee contained herein, in the Participation Agreement or the Indemnity Agreement or the Consent (both as defined in the Participation Agreement) and such default shall continue for 30 days after the written notice from the Owner or the Bank to the Lessee specifying the default and demanding that the same be remedied;

(E) any representation or warranty made by the Lessee herein, in the Participation Agreement or the Indemnity Agreement or in any certificate or written statement furnished to the Owner pursuant to or in connection with any such agreement proves untrue, misleading or incorrect in any materially adverse respect as of the date of making thereof;

(F) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, the Consent and the Indemnity Agreement shall not have been and shall not continue to be duly assumed in writing within 60 days after such petition shall have been filed, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees;

(G) any other proceeding shall be commenced by or against the Lessee for any relief which includes or might result in any modification of the obligations of the Lessee hereunder or under the Consent or the Indemnity Agreement, under any bankruptcy or insolvency laws or laws relating to the relief of debtors, readjustments or indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all such obligations shall not have been and shall nor continue to be duly assumed in writing within 60 days after such proceedings shall have been commenced, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as expenses or administration and obligations incurred by such trustee or trustees or receiver or receivers; or

(H) the Lessee shall suspend or terminate the operations of its business;

then, in any such case, the Owner, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or,

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner may personally, or through its agents, enter upon the premises of the Lessee or other premises, insofar as the Lessee may be lawfully authorized so to permit, where any of such Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and possess the same free from any right of the Lessee or its successors or assigns to use the Units for any purposes whatever; but the Owner shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number or days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as liquidated damages for loss of a bargain and not as a penalty whichever of the following amounts that the Owner in its sole discretion shall specify, (i) the sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, or the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Owner reasonably estimates to be obtainable for each Unit during such period (such present value to be computed in each case on the basis of a 6.3% per annum discount, compounded quarterly for the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated) or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including

reasonable attorneys' fees, which the Owner shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental or (ii) an amount equal to the excess, if any, of the sum of the quarterly rental payment and the Casualty Value as of the Casualty Payment Date on or next preceding the date of termination over the amount the Owner reasonably estimates to be the sales value of such Unit at such time. In the event the Owner shall have sold any Unit, the Lessee shall, if the Owner shall so elect, pay to the Owner on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the sum of the quarterly rental payment and the Casualty Value for such Unit as of the Casualty Payment Date on or next preceding the date of termination over the net proceeds of such sale in lieu of collecting any amounts payable by the Lessee pursuant to clause (ii) of the preceding sentence with respect to such Unit. In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Owner's remedies with respect thereto, including all costs and expenses incurred in connection with the return or sale of any Unit.

13.2 Remedies Not Exclusive; Waiver. The remedies in this Lease provided in favor of the Owner shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law now or hereafter in effect which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

13.3 Failure to Exercise Rights is not Waiver. The failure of the Owner to exercise the rights granted it hereunder upon the occurrence of any Event of Default shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

13.4 Notice of Event of Default. The Lessee agrees to furnish written notice to the Owner and the Bank, promptly upon any responsible officer's becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which after notice or lapse of time or both would constitute such an Event of Default, specifying such condition and the nature and status thereof. A "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirement of this Lease with respect thereto.

SECTION 14. RETURN OF UNITS UPON DEFAULT

14.1 Return of Units. If this Lease shall terminate pursuant to Section 7 or Section 13 hereof, the Lessee shall forthwith deliver possession of the Units to the Owner. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, shall meet all standards of all Applicable Laws then in effect, and shall have attached

or affixed thereto any special device considered an accession thereto as provided in Section 11 hereof and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in Section 11 hereof, is owned by the Lessee or if the Lessee elects not to remove the same and the Owner consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Owner. For the purpose of delivering the possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including without limitation giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) place such Units upon such storage tracks as the Owner reasonably may designate;

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Owner; and

(c) cause the same to be transported to any reasonable place as directed by the Owner.

The assembling, delivery, storage, insuring and transporting of the Unit as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having competent jurisdiction the Owner shall be entitled to decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own cost and expense, insure, maintain and keep the Units in good order and repair and will permit the Owner or any person designated by it, including the authorized

representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All net earnings earned in respect of the Units after the date of termination of this Lease shall belong to the Owner and, if received by the Lessee, shall be promptly turned over to the Owner. In the event any Unit is not assembled, delivered and stored as hereinabove provided within 30 days after such termination, the Lessee shall in addition pay to the Owner for each day thereafter an amount equal to the amount, if any, by which the percentage of the Purchase Price of such Unit for each such day (such percentage is obtained by dividing the basic lease rate as set forth in Section 3.1 hereof for each quarterly payment for such Unit by ninety (90)) exceeds the actual earnings received by the Owner on such Unit for each such day. Such payment shall not offset the obligation of the Lessee to redeliver the Equipment pursuant to the first sentence of this Section. For purposes of this Section 14, net earnings for each Unit shall be determined by aggregating all income including rentals and mileage per diem charges which the Lessee may have received or be entitled to receive in respect of such Unit and subtracting therefrom the Lessee's operating expenses including freight, interchange, running repairs and other similar charges in respect of such Unit. In no event shall net earnings include any sums that may be earned by the Lessee on the commodity, if any, being transported in such Unit.

14.2 Owner Appointed Agent of Lessee. The Lessee hereby irrevocably appoints the Owner as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Owner, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit.

SECTION 15. ASSIGNMENT, POSSESSION AND USE

15.1 Assignment; Consent. This Lease shall be assignable in whole or in part by the Owner without the consent of the Lessee, however, the Owner agrees to promptly notify the Lessee of any such assignment. The Lessee hereby acknowledges the assignment of this Lease pursuant to the Lease Assignment.

15.2 Lessee's Rights to Use the Units. (1) So long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the CSA, subject to the provisions of Section 4.2 of this Lease. The Lessee shall not permit more than de minimis use of any Unit outside the continental United States of America. The Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them without the prior written consent of the Owner and the Bank, except as provided in paragraph (2) of this Section 15.2; and the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units without the prior written consent of the Owner and the Bank, except as provided in said paragraph (2). The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which if unpaid might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Owner or the Bank or resulting from claims against the Owner or the Bank not related to the ownership of the Units or any encumbrance on the leasehold estate of the Lessee which is subordinate to the interests of the Owner and the Bank) upon or with respect to any Unit, including any accession thereto or the interest of the Owner, the Bank or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises; provided that the Lessee may contest any such lien, claim, security interest or other encumbrance if the Lessee provides indemnity which shall protect the interests of the Bank and the Owner.

(2) So long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession and use of the Units by it or any sublessee upon lines of any railroad or other trackage over which railroad equipment is regularly operated and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange or traffic or pursuant to run-through or trilease agreements and to sublease the Units, but only upon and subject to all the terms and conditions of this Lease and the CSA; provided, however, that the Lessee shall not assign, sublease or use or permit the assignment, sublease or use of any Unit involving the operation or maintenance thereof except as otherwise provided in this Lease, nor shall the Lessee assign or sublease any Unit to, or permit the assignment, sublease or use of any Unit by, any person unless (i) the Owner shall be given notice of such sublease 15 days prior to the commencement thereof, it being understood that no trilease agreement entered into in the ordinary course of the Lessee's business shall constitute a sublease under this section, and (ii) the term of such sublease shall end on the earlier of six months from the commencement of such sublease or the end of the Lease period. No consecutive renewals of such sublease or a sublease beyond six months shall be permitted without the consent of the Owner which shall not be unreasonably withheld. In the case of a sublease having a fixed term of six months or more which is permitted, the Lessee shall provide, on request of the Owner and solely as further security for the obligations of the Lessee hereunder, an assignment of sublease in form and substance satisfactory to the Owner, provided, however, that until (a) an Event of Default occurs hereunder and (b) the Owner notifies the Lessee and sublessee that it demands payment of the rents and moneys payable in respect of such sublease, all rents and moneys under such sublease shall be paid to the Lessee and the Owner shall not interfere with such sublease. The Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee

assign or sublease to or permit the sublease or use of the Units by any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units and may receive and retain any mileage credits. Any sublease permitted by this paragraph shall be expressly subordinate to the rights and remedies of the Bank under the CSA and the Owner under this Lease in respect of the Units covered by such sublease and no such sublease shall relieve the Lessee of any of its obligation hereunder which, notwithstanding any such sublease, shall remain in full force and effect.

(3) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Bank is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lessee may quietly have, hold and enjoy the Units free and clear from repossession or disturbance by the Owner or its officers, agents, employees or servants or by anyone (including the Bank) claiming by, through or under the Owner.

15.3 Merger, Acquisition or Consolidation. The Lessee covenants not to merge with, or transfer all or substantially all its assets (including, but not limited to, the declaration and payment of liquidating dividends) to, any other business entity, but nothing in this Section 15 shall be deemed to restrict the right of the Lessee to assign its leasehold interest under this Lease or possession of the Units to any corporation incorporated under the laws of any state of the United States or the District of Columbia into or with which the Lessee shall have become merged or consolidated or which now owns all the capital stock of the Lessee or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety and which shall have duly assumed the obligations of the Lessee hereunder, provided that such assignee will not, upon the effectiveness thereof, be in default under

any provision of this Lease; and provided further that the assuming corporation has a net worth which is not less than the net worth of Lessee immediately prior to the merger. In each case, net worth shall be determined in accordance with generally accepted accounting principles.

SECTION 16. RENEWAL OPTIONS

16.1 Renewals for Successive Period. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner not less than 170 days nor more than 270 days prior to the end of the original term of this Lease, irrevocably elect to extend such original term of this Lease in respect of not less than all the Units then covered by this Lease for a period of three years commencing on the scheduled expiration of such original term of this Lease, at a "Fair Market Rental" payable, in arrears, in quarterly payments on the day such rentals were payable for the Units in each year of such extended term. In the event of any such renewal, the Casualty Values and the Termination Values in respect of any Unit shall be as agreed upon by the Owner and the Lessee.

16.2 Determination of Fair Market Rental. (1) The Fair Market Rental for each extended term of this Lease shall be equal to the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than the Lessee currently in possession) and an informed and willing lessor under no compulsion to lease, and costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 30 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Owner and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, either party to such determination may give written notice ("Second Notice") to the other requesting determination of such Fair

any provision of this Lease; and provided further that the assuming corporation has a net worth which is not less than the net worth of Lessee immediately prior to the merger. In each case, net worth shall be determined in accordance with generally accepted accounting principles.

SECTION 16. RENEWAL OPTIONS

16.1 Renewals for Successive Period. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner not less than 170 days nor more than 270 days prior to the end of the original term of this Lease, irrevocably elect to extend such original term of this Lease in respect of not less than all the Units then covered by this Lease for a period of three years commencing on the scheduled expiration of such original term of this Lease, at a "Fair Market Rental" payable, in arrears, in quarterly payments on the day such rentals were payable for the Units in each year of such extended term. In the event of any such renewal, the Casualty Values and the Termination Values in respect of any Unit shall be as agreed upon by the Owner and the Lessee.

16.2 Determination of Fair Market Rental. (1) The Fair Market Rental for each extended term of this Lease shall be equal to the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than the Lessee currently in possession) and an informed and willing lessor under no compulsion to lease, and costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 30 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Owner and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, either party to such determination may give written notice ("Second Notice") to the other requesting determination of such Fair

Market Rental by an appraisal procedure. The parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 15 days after such Second Notice is given, each party shall appoint an appraiser within 20 days after such Second Notice is given, and the two appraisers so appointed shall within 35 days after such Second Notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such Second Notice is given, either party may apply to make such appointment to the American Arbitration Association and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 30 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules or the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The costs of appraisal, if any, incurred in connection with the determination of Fair Market Rental pursuant to this Section 16.2 shall be shared equally by the Owner and the Lessee if the Lessee shall elect to extend the original term of this Lease with respect to the Units pursuant to Section 16.1 hereof and shall be paid entirely by the Lessee if the Lessee shall fail to elect to so extend the original lease term.

16.3 Duty of First Offer. Not less than 300 days prior to the end of the term of this Lease (either the original or the extended term, as the case may be) and provided that no Event of Default shall be in existence, the Owner shall notify the Lessee in writing as to whether the Owner will attempt to sell any Units at the end of the term hereof, and shall accompany such notice with an irrevocable offer to sell such Units to the Lessee, at the end of the term hereof, upon the terms and conditions set forth herein; provided, however, that the Owner's right to sell such Units at the end of the original term hereof shall be subject to the Lessee's right to extend such term pursuant to Section 16.1. If the Lessee shall be interested in purchasing such Units, the Lessee shall give written notice to Owner, not less than 270 days prior to the end of the term hereof, of such interest. If (i) during the original term hereof, the Lessee fails to give such notice and has failed to give written notice that it elects to extend the term hereof as provided in Section 16.1, or (ii) during the extended term hereof, the Lessee fails to give such notice of its interest to purchase, the Lessee shall have no further right to purchase such Units.

If the Lessee shall give such notice, the Owner and the Lessee shall promptly cause the Fair Market Purchase Price of such Units to be determined in a manner comparable to that provided in Section 16.2 and determined as if the Units had been maintained in accordance with, and were in the condition required pursuant to Section 11 hereof, which determination shall be made not less than 170 days prior to the end of the term hereof; and the Owner, at its election and in a commercially reasonable manner, may solicit offers to buy such Units on the same terms and conditions as would apply to a sale of such Units to the Lessee. True copies of any bona fide offers received by the Owner from a party not related to the Owner or the Lessee shall be submitted to the Lessee not less than 200 days prior to the end of the term hereof. After determination of the Fair Market Purchase Price and not less than 170 days prior to the end of the term hereof, the Lessee may give written

notice to the Owner of its acceptance of the Owner's offer at a price equal to the greater of (i) the Fair Market Purchase Price and (ii) the highest such bona fide offer so received by the Owner and transmitted to the Lessee. If the Lessee shall fail to give such notice, the Lessee shall have no further right to purchase such Units. If the Lessee shall give such notice, the Lessee shall purchase such Units on the last business day of the term hereof, at such price and upon the other terms and conditions set forth herein. The costs of appraisal, if any, incurred in connection with the determination of Fair Market Purchase Price pursuant to this Section 16.3 shall be shared equally by the Owner and the Lessee if the Lessee shall elect to purchase such Units pursuant to this Section 16.3, and shall be paid entirely by the Lessee if the Lessee shall fail to elect to so purchase such Units.

Upon payment of the Fair Market Purchase Price for any Unit (or such other purchase price as is provided for herein) pursuant to an exercise by the Lessee of its right of first refusal with respect to such Unit, the Owner shall execute and deliver to the Lessee, or upon request of the Lessee to the Lessee's assignee or nominee, (i) a bill of sale (without warranties, except as hereinafter provided in this clause (i)) for such Unit which will transfer title to such Unit to the Lessee, or to such assignee or nominee, as the case may be, free and clear of all claims, liens, security interest and other encumbrances created by or arising through the Owner, other than claims, liens, security interests and encumbrances which the Lessee is obligated to pay or discharge under or pursuant to this Lease, and (ii) an opinion of counsel (who may be in-house counsel of the Owner), to such effect. Notwithstanding the foregoing, if any Unit so purchased is to be sold to the Lessee under a conditional sale agreement, the Owner shall have the right to retain a security interest in such Unit until such time as all payments in respect thereof shall have been made.

SECTION 17. RETURN OF UNITS UPON EXPIRATION OF LEASE
TERM OR TERMINATION

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit or on or after a termination of this Lease pursuant to Section 4.2 or 7.8 hereof, and in any event not later than 30 days thereafter, the Lessee will, at its own cost, expense and risk, without charge to the Owner for insurance pursuant to the requirements of this Lease, at the option of the Owner, either (i) deliver possession of such Unit to the Owner at a location which is within the continental United States and is reasonably accessible to prospective purchasers and lessees upon such storage tracks as the Lessee may select, and permit the Owner to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such Unit and transport the same upon disposition of the Units to any reasonable place or to any connecting carrier for shipment within 750 miles of the point of the Lessee's last use of such Unit at any time within such three-month period, all as directed by the Owner, or (ii) deliver possession of such Unit to the Owner upon such storage tracks within 750 miles of the point of the Lessee's last use of such Unit as the Owner may reasonably select and which are available to the Lessee and permit the Owner to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such Unit. Upon the last delivery referred to in the preceding sentence, the Lessee shall be absolved of any further responsibility for such Units. During any such storage period the Lessee will permit the Owner or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not

be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising the rights of inspection granted under this sentence. Each Unit returned to the Owner pursuant to this Section 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet all standards of the Applicable Laws then in effect with respect to the usage of the Units by the Lessee (iii) have removed therefrom any device not considered an accession and (iv) otherwise comply with the requirements set forth in Section 11; provided, however, that if the Lessee elects not to remove such device and the Owner consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Owner. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having competent jurisdiction, the Owner shall be entitled to a decree against the Lessee requiring specific performance of such covenants of the Lessee. For each day from and including the expiration date of the Lease to but not including the date each Unit is returned pursuant to this Section 17, the Lessee shall, in addition to any other amounts which may be due hereunder, pay to the Owner in respect of each such Unit any net earnings achieved by the Lessee as a result of its use of such Unit during such period. For purposes of this Section 17, net earnings for each Unit shall be determined by aggregating all income including rentals and mileage per diem charges which the Lessee may have received or is entitled to receive in respect of such Unit and subtracting therefrom the Lessee's operating expenses including freight, interchange, running repairs and other similar charges in respect of such Unit. In no event shall net earnings include any sums that may be earned by the Lessee on the commodity, if any, being transported in such Unit.

SECTION 18. FILING

The Lessee, at its own expense, will cause this Lease, the CSA, the CSA Assignment and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303 prior to the delivery and acceptance of any Unit hereunder, and will undertake the filing required of the Owner under the CSA. The Lessee will from time to time perform any other act and will execute, acknowledge, deliver and file (and will refile whenever required) any and all further instruments required by law or reasonably requested by the Owner or the Bank for the purpose of carrying out the intention of this Lease, the CSA, the CSA Assignment and the Lease Assignment; and the Lessee will promptly furnish to the Bank and the Owner evidence of all such filings and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Bank and the Owner.

SECTION 19. INTEREST ON OVERDUE RENTALS

The Lessee shall promptly pay, to the extent legally enforceable, an amount equal to the Penalty Rate on any overdue rentals and other obligations due hereunder for the period of time during which they are overdue, computed on the basis of a 360-day year.

SECTION 20. OWNER'S RIGHT TO PERFORM FOR LESSEE

If the Lessee fails to perform any of its agreements contained herein the Owner may upon notice to the Lessee perform such agreement, and the amount of the reasonable cost and expenses of the Owner incurred in connection with such performance, together with interest on such amount at the Penalty Rate (as such term is defined in the CSA) shall be payable by the Lessee upon demand, except as otherwise provided in this Lease. No such performance or compliance by the Owner shall be deemed a waiver of the rights and remedies of the Owner or any assignee of the Owner

against the Lessee hereunder, including, without limitation, the right of the Bank to terminate this Lease pursuant to Article 16 of the CSA and the Lease Assignment, and no such performance or compliance by the Owner shall be deemed to cure an Event of Default hereunder for purposes of Article 16 or the CSA except as otherwise provided in Section 16.1(e) of the CSA.

SECTION 21. NOTICES

Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when delivered personally to the party to be charged thereby, or three (3) days after being deposited in the United States mail, first class, postage prepaid and properly addressed to that party, or upon transmission to that party by telex or facsimile, in each case delivered, addressed or transmitted, as the case may be, to that party at its address, as follows:

If to Lessee. BASF Corporation, P. O. Drawer D, Williamsburg, Virginia 23187, Attention: Director of Financial Services, Telephone No.: 804-887-6000, Telex: 82-3446, with copy to BASF Corporation, Nine Campus Drive, Parsippany, N.J. 07054 Attention: Treasurer

If to Bank. Barclays Bank PLC, Suite 1800 First Atlanta Tower, 2 Peachtree Street, NW, Atlanta, Georgia 30383, Attention: Manager, Telephone No.: 404-588-0437, Telex: 542-575.

If to the Owner. BarclaysAmerican/Leasing, Inc., 201 South Tryon Street, Charlotte, North Carolina 28202, Attention: Credit and Administration Director, Telephone No.: 704-372-5210, Telex: 572-562.

or at such other place as any such party may designate by notice given in accordance with this Section.

SECTION 22. SEVERABILITY

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Any such prohibition or unenforceability shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 23. EFFECT AND MODIFICATION OF LEASE

Except for the Participation Agreement, the CSA and the Indemnity Agreement, this Lease exclusively and completely states the rights of the Owner and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers for the Owner and the Lessee.

SECTION 24. EXECUTION

This Lease may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Bank pursuant to the Lease Assignment shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

SECTION 25. GOVERNING LAW

This Lease shall be governed by and construed in accordance with the laws of the state of North Carolina provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303, such if any, and out of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Lease or any assignment hereof shall be filed, recorded or deposited or in which any Unit shall be located, and any rights arising out of the marking of the Units.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first above written.

Attest:


Assistant Secretary

[Corporate Seal]

BASF CORPORATION

By: 
K.H. Mennig

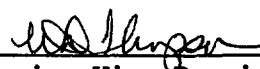


Attest:


Assistant Secretary

[Seal]

BARCLAYSAMERICAN/LEASING, INC.

By: 
Senior Vice President
WST

STATE OF Virginia,)
) ss.:
COUNTY OF James City,)

On this 13th day of August, before me personally appeared Klaus H. Messinger, to me personally known, who, being by me duly sworn, says that he is a U.P. Administration (Filers Division) of BASF, a Delaware corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Mary Ann Zyzma
Notary Public

[Notarial Seal]

My Commission Expires: April 16, 1990

STATE OF D.C.,)
) ss.:
COUNTY OF Wheatleyburg,)

On this 15th day of August 1986, before me personally appeared W. D. Thompson, to me personally known, who, being by me duly sworn, says that he is a ~~Senior~~ Vice President of BARCLAYSAMERICAN/LEASING, INC., a North Carolina corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Betty W. Ottinger
Notary Public

[Notarial Seal]

My Commission Expires: 12-8-88

APPENDIX A
TO LEASE

UNITS OF RAILROAD EQUIPMENT

<u>TYPE</u>	<u>AAR MECHANICAL DESIGNATION</u>	<u>SPECIFI- CATIONS</u>	<u>PLANT</u>	<u>QUANTITY</u>	LESSEE'S IDENTIFICATION NUMBERS (BOTH <u>INCLUSIVE</u>)	<u>ESTIMATED UNIT BASE RATE*</u>	<u>ESTIMATED TOTAL BASE RATE</u>	<u>ESTIMATED TIME AND PLACE OF DELIVERY</u>
T016 23,800 Gallon Coiled and Insulated Aluminum Tank Car's	111A60 ALW1	Q-1067 10/21/85	Tulsa, OK.	32	DBCX 425-456	88,000	2,816,000	F.O.B. Plant

APPENDIX B TO LEASE

Casualty and Termination Values

<u>Payment Dates</u>	<u>Percentage of Purchase Price</u>	<u>Payment Dates</u>	<u>Percentage of Purchase Price</u>
January 1, 1987	103.00	January 1, 1998	67.08
April 1, 1987	103.59	April 1, 1998	66.82
July 1, 1987	103.86	July 1, 1998	64.77
October 1, 1987	104.11	October 1, 1998	63.60
January 1, 1988	104.31	January 1, 1999	62.41
April 1, 1988	101.63	April 1, 1999	62.14
July 1, 1988	101.72	July 1, 1999	60.00
October 1, 1988	101.78	October 1, 1999	58.78
January 1, 1989	101.80	January 1, 2000	57.54
April 1, 1989	98.95	April 1, 2000	57.26
July 1, 1989	98.88	July 1, 2000	55.02
October 1, 1989	98.78	October 1, 2000	53.74
January 1, 1990	98.66	January 1, 2001	52.45
April 1, 1990	95.66	April 1, 2001	51.13
July 1, 1990	95.44	July 1, 2001	49.84
October 1, 1990	95.20	October 1, 2001	48.54
January 1, 1991	94.92	January 1, 2002	47.25
April 1, 1991	91.77	April 1, 2002	45.94
July 1, 1991	91.40	July 1, 2002	44.66
October 1, 1991	91.00	October 1, 2002	43.37
January 1, 1992	90.56	January 1, 2003	42.09
April 1, 1992	87.24	April 1, 2003	40.80
July 1, 1992	86.71	July 1, 2003	39.55
October 1, 1992	86.15	October 1, 2003	38.29
January 1, 1993	85.56	January 1, 2004	37.03
April 1, 1993	84.93	April 1, 2004	35.77
July 1, 1993	84.25	July 1, 2004	34.56
October 1, 1993	83.53	October 1, 2004	33.34
January 1, 1994	82.78	January 1, 2005	32.13
April 1, 1994	81.99	April 1, 2005	30.92
July 1, 1994	81.14	July 1, 2005	29.76
October 1, 1994	80.82	October 1, 2005	28.56
January 1, 1995	80.90	January 1, 2006	27.32
April 1, 1995	80.41	April 1, 2006	26.03
July 1, 1995	81.31	July 1, 2006	24.74
October 1, 1995	81.27	October 1, 2006	23.41
January 1, 1996	81.22	January 1, 2007	22.05
April 1, 1996	80.63		
July 1, 1996	78.05		
October 1, 1996	76.23		
January 1, 1997	74.40		
April 1, 1997	72.97		
July 1, 1997	70.18		
October 1, 1997	68.21		